

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action mailed on May 15, 2008, which has been reviewed and carefully considered. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1 and 4 are pending. Claim 3 is canceled without prejudice. The Applicants respectfully reserve the right to reintroduce subject matter deleted, either at a later time during the prosecution of this application or any continuing applications. Claims 5-18 are newly added.

By means of the present amendment, claim 1 is amended for non-statutory reasons, such as for better form including beginning the claim with "A", for example, and such amendment is not made to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents.

In the Office Action, claims 1, 3 and 4 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 5,729,525 to Ishida et al ("Ishida"). It is respectfully submitted

that claims 1 and 4 are patentable over Ishida for at least the following reasons.

Ishida discloses methods for recording data to a dual layer optical disk. Ishida discloses (in FIG. 5B, for example, as cited by the Examiner) a process of recording meaningful data to recording areas of first and second recording layers 74, 76 and then filling blank data areas that remain in the recording areas with dummy data to ensure that data is recorded in the entire recording areas of the first and second recording layers (see, Col. 9, line 25 - Col. 10, line 11). As stated in Ishida (emphasis added), "tracking can be maintained, and system errors thereby prevented, irrespective of where the focus is readjusted by recording dummy data to those parts of the recording areas to which meaningful data is not recorded on the first and second recording layers." (See, Col. 9, lines 37-41.) In other words, with Ishida's recording process, data blocks containing meaningful data are stored in such a way that blank data areas are expected to exist after recordation of the data blocks, and where such blank data areas are subsequently filled with dummy data.

As noted by the Examiner, Ishida discloses that any type of information (other than dummy data) can be recorded to the blank data areas "insofar as the recorded data forms bit sequence signal tracks" (see, e.g., Col. 10, lines 22-25). However, there is nothing in Ishida that discloses or suggests that such blank data areas can be filled with meaningful data, as Ishida teaches that the meaningful data is completely stored to the recording areas prior to filling blank data areas with other information. In addition, Ishida does not disclose or suggest that the dummy data or other (non-meaningful) information used to fill the blank data areas are divided into blocks before being recorded to the recording areas of first and second recording layers 74, 76.

In view of the above, it is respectfully submitted that Ishida does not teach or suggest, amongst other patentable elements, (illustrative emphasis provided): "dividing data content to be recorded on the recordable multi-layer record carrier into data blocks, and recording the data blocks of the data content on the recordable multi-layer record carrier such that the data content is substantially evenly distributed between each of the plurality of

information layers," as recited in claim 1 and as similarly claimed in claims 4 and 12. Again, as explained above, Ishida's process records data blocks of meaningful data on multiple layers with an expectation that blank data areas will exist after said recordation process, and that such blank data areas will be subsequently filled with dummy data or other (non-meaningful) data (which dummy/other data is not divided into blocks prior to recording).

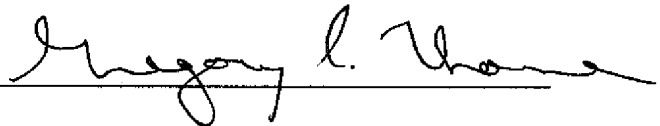
Based on the foregoing, the Applicants respectfully submit, that independent claims 1, 4 and 12 are patentable over Ishida and notice to this effect is earnestly solicited. Claims 5-11 and 13-18 respectively depend from one of claims 1 and 12, as well as individually patentable elements recited in claims 5-11 and 13-18 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of

argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
July 17, 2008

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101